

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-36 are all the claims pending in the application.

Additional Fees

Submitted herewith is a Petition for Extension of Time with fee.

Claim to Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicant also thanks the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on July 15, 2005.

Specification

The abstract of the disclosure is objected to because it uses claim language in its description of the invention.

Applicant is amending the abstract of the disclosure to overcome this objection.

Art Rejections

1. Claims 20-36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Horlin (WO 01/37909).

2. Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Horlin (WO 01/37909) in view of Fairbairn (GB 1,336,014).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. Claims 20-36 In View Of Horlin (WO 01/37909).

In rejecting claims 20-36 in view of Horlin (WO 01/37909), the grounds of rejection state:

Horlin in figures 1-8 discloses an inhaler cartridge 4 that dispenses by pressing downwardly inside a holder channel 3 in order to trigger the dispensation (see figure 7) through passage 6, with a counter mechanism 2 with a cap 7 with a viewing window 10 to view a spiral set of numbers 21 to assist the user in knowing how many doses are used or left, the pin 32 is actuated when the inhaler cartridge 4 is pressed downwardly into the holder channel 3, the pin 32 flexes a tab 33 that flexes before the actuation of the inhaler cartridge 4, which in turn rotates control wheel 9 which in turn rotates the toothed engaged counting wheel 8 to the end tabs 30-31 to the teeth 23 of the counting wheel, which in turn changes the viewed number (see figure 3a) with the use of the second relatively stiff flexible tabs 25-26 that actuate after the rotary wheel has commenced rotating, the control wheel prevented from over actuating by a key slot 34-35, which will only allow the control wheel 8 to actuate a certain distance, the control wheel prevented from rotating in the wrong direction by the end tabs 30-31, the entire counting device 2 integrated and assembled as one piece 7-9 (see figure 5).

Office Action at pages 2-3. Applicant respectfully disagrees.

The grounds of rejection appear to be based on a misunderstanding regarding the disclosure of Horlin.

As clearly explained in Horlin, the counter in this document is **not** actuated at the beginning of the actuation stroke, but only when the container goes back from its actuated state to its rest position (e.g. during the return stroke). See page 13, line 23 to page 14, line 9, and in particular page 13, line 31 to page 14, line 1.

On the other hand, independent claim 1 requires “actuator means comprising two flexible elements of different flexibilities, the more flexible element enabling said rotary counting wheel to be rotated ***at the start of the actuation stroke*** of the dispenser device”

Independent claim 20 requires “the more flexible element enabling said rotary wheel to be rotated ***at the start of the actuation stroke*** of the dispenser device”

Independent claim 35 requires that the “***initial movement of the transmission element*** causes the first flexible element to flex and rotate the rotary wheel by a predetermined amount before the first flexible element is stopped.”

Clearly, Horlin does not teach or suggest that the rotary counting wheel is rotated at the start of the actuation stroke and thus cannot anticipate or render obvious these claims. Nor does Fairbairn teach or disclose this feature.

Furthermore, Horlin does not disclose an actuator having two flexible elements of different flexibilities, one being to rotate the counting wheel, and the other being to continue the actuation stroke after said rotation.

To the contrary, as explained in Horlin, there is no continuation of the actuation stroke after rotation of the counting wheel, as the counting wheel is rotated only during the return stroke.

For at least the foregoing reasons, the Examiner is requested to reconsider and withdraw the rejection of the claims.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Raja N. Saliba
Registration No. 43,078

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: June 22, 2009